

Fiscal Management Division
Statewide Fiscal Services Dept.
Expenditure Audit Section
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Post-Payment Audit of the Railroad Commission of Texas



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EXECUTIVE SUMMARY

Audit scope

We audited a sample of the Railroad Commission of Texas (Commission) payroll, purchase and travel transactions that processed through the Uniform Statewide Accounting System (USAS) and the Uniform Statewide Payroll/Personnel System (USPS) during the period beginning March 1, 2015 through Feb. 29, 2016, to determine compliance with applicable state laws.

The Commission receives appendices with the full report that includes a list of the identified errors. Copies of the appendices may be requested through a [Public Information Act](#) inquiry.

The audit provides a reasonable basis for the findings set forth in this report. The Commission should implement the recommendations listed in the Detailed Findings of this report. It is the Commission's responsibility to seek refunds for all overpayments unless it determines it is not cost effective to do so. If necessary, the Comptroller's office may take the actions set forth in Texas Government Code, Section 403.071(h), to ensure that the Commission's documents comply in the future. The Commission must ensure that the findings discussed in this report are resolved.

Texas law requires the Texas Comptroller of Public Accounts (Comptroller's office) to audit claims submitted for payment through the Comptroller's office. All payment transactions are subject to audit regardless of amount or materiality.

Payroll transactions and payroll deductions

Payroll transactions were audited for compliance with the General Appropriations Act (GAA), the [Texas Payroll/Personnel Resource](#) and other pertinent statutes.

The audit identified:

- Incorrect lump sum vacation payment.
- Incorrect longevity pay amounts.

A limited sample of voluntary contributions was also audited.

- No issues were identified.

Travel transactions

Travel transactions were audited for compliance with the GAA, [Textravel](#) and other pertinent statutes.

The audit identified:

- Incorrect mileage payment.

Travel card transactions

Travel card transactions were audited for compliance with the GAA, [Textravel](#) and other pertinent statutes.

The audit identified:

- Early check-in fee not payable.

Purchase transactions

Purchase transactions were audited for compliance with the GAA, [eXpendit](#), the [State of Texas Procurement Manual](#) and other pertinent statutes.

The audit identified:

- Purchase order created after invoice.
- Incorrect procurement process.
- Prompt payment and payment scheduling errors.

Payment card transactions

Purchase transactions were audited for compliance with the GAA, [eXpendit](#), the [State of Texas Procurement Manual](#) and other pertinent statutes.

The audit identified:

- DIR contract vendor not used/DIR waiver not obtained.
- Term contract not utilized.
- Missing documentation.

Internal control structure

The Commission's internal control structure was reviewed. The review was limited to obtaining an understanding of the Commission's controls sufficient to plan the audit and did not include tests of control policies and procedures.

- No issues were identified.

Fixed assets

The audit included a review of a limited number of fixed assets acquired by expenditures during our audit period to test for accurate reporting in the Commission's internal system.

- No issues were identified.

Prior post-payment audit and current audit recurring errors

A prior post-payment audit of the Commission's payroll, purchase and travel transactions was concluded on Aug. 1, 2012.

During the current audit, one recurring error was identified:

- Prompt payment and payment scheduling issues.

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DETAILED FINDINGS — PAYROLL

Incorrect Lump Sum Vacation Payment

Finding

During the audit, a payroll transaction was identified in which an employee received an incorrect lump sum vacation payment after termination, which resulted in an underpayment of \$13,547.88. The Commission created a transaction to process the vacation payment of 680 hours. However, the agency did not create additional transactions to accommodate the two additional Program Cost Accounts (PCA) from which the employee was receiving compensation.

The initial transaction only paid the percentage of the vacation hours that corresponded to the PCA percentage of the employee's primary PCA. This transaction resulted in the Commission not providing the correct lump sum payout of vacation hours.

As a result of the audit, the Commission subsequently created the special pay transactions and paid the employee the correct amount of vacation hours due.

Refer to [USPS Process Guide](#) – Chapter 10 – Special Pays – HUZU1 – Lump Sum Payments.

Recommendation/Requirement

The Commission should evaluate its current payroll processes to ensure that the lump sum vacation payments incorporate compensation from the primary PCA and any additional PCAs.

Commission Response

We concur with this recommendation. The post termination lump sum vacation payout found to be in error has been paid to rectify the situation. Additionally, the HR department has revised its payroll process for post termination pay outs and will now print and verify the PCA screens during the lump sum process to ensure all lump sum payments are complete and accurate.

Incorrect Longevity Pay Amounts

Finding

We identified three employees at the Commission who had incorrect state effective service dates in USPS. Two employees were identified in a report outside the sample that listed prior state employment for these employees. The Commission verified that the prior state service was valid. The other employee had an erroneous employment row in USPS. The incorrect state effective service dates resulted in two underpayments of longevity pay totaling \$960 and one overpayment of longevity pay totaling \$40. The Commission paid longevity pay to the two underpaid employees and recouped the longevity overpayment amount from the third employee.

The Commission's procedures include verifying prior state service whenever an employee indicates previous state employment on the Commission's internal record of previous state employment form, which is maintained in the human resources department. In this instance, the employees noted the previous state employment in the job application which is filed with the payroll department; however, it was not verified by the Commission. The human resources department has implemented procedures to verify employment that may be listed on both the job application and their internal record of previous state employment form.

When an agency hires an employee, the agency must research whether the employee has previous state employment. If prior state employment exists, the agency must confirm the amount of lifetime service credit and properly record it or run the risk of underpaying longevity pay. See the [Texas Payroll/Personnel Resource](#) – Longevity Pay.

We provided the Commission with the schedule of incorrect longevity pay amounts. It is not included with this report because it contains confidential information.

Recommendation/Requirement

The Commission must ensure that its internal operating procedures include quality control measures that will detect any incorrect payments to a state employee. The Commission must continue to review each employee's job application and internal record of previous state employment form for prior state service for all current and new employees to ensure that it is properly recorded.

Commission Response

We concur with this recommendation. The three incorrect longevity payouts mentioned in the report have been corrected. In each circumstance, the employee completed and verified their prior state service. The HR department has changed its operating procedures to complete all prior state service forms based upon the information given on the state application, not by the employee's memory, and then verified by the employee. We believe this will provide more accurate and complete prior state service information.

DETAILED FINDINGS — TRAVEL

Incorrect Mileage Payment

Finding

We identified one travel transaction where an incorrect amount for mileage was reimbursed to the employee. The employee claimed mileage from the duty point to headquarters, but the travel voucher stated that the employee traveled from the duty point to their home. The miles from the employee's duty point to their home would have resulted in less mileage claimed.

The Commission failed to identify the error when reviewing the travel voucher prior to the payment. The Commission received a refund from the traveler during fieldwork.

A state employee is entitled to be reimbursed for mileage incurred to conduct state business. The reimbursement may not exceed the number of miles of the most cost effective, reasonably safe route between two duty points. In determining the most cost effective, reasonably safe route, a state agency may consider the route that provides the shortest distance, the quickest drive time or the safest road conditions. See [Textravel](#) – Transportation – Mileage.

Recommendation/Requirement

The Commission must review all travel transactions relating to mileage reimbursement to ensure that the mileage claimed does not exceed the number of miles of the most cost effective route between two points. The mileage claimed must be the lesser of the distance between the duty point and the employee's home or headquarters.

Commission Response

We concur with this finding. The Commission has updated its internal procedures requiring verification that no mileage reimbursements exceed the amount calculated based on the most cost-effective route. The verification process will include comparing travel details against either MapQuest mileage details or odometer reading.

Early Check-In Fee Not Payable

Finding

In a report outside of the sample, we identified one instance in which the Commission reimbursed an employee who claimed an early check-in fee of \$12.50 with Southwest Airlines. Early check-in fees are not payable unless there is a business need. The Commission stated that they do not have an internal policy for paying these fees.

Texas Government Code, Section 660.007(a) states that a state agency shall minimize the amount of travel expenses paid or reimbursed by the agency. The agency shall ensure that each travel arrangement is the most cost effective considering all relevant circumstances.

Recommendation/Requirement

The Commission may not pay early check-in fees for airline flights. The Commission must ensure that all travel expense claims are accurately reviewed for legality and accuracy prior to payment.

In addition, the Commission must establish an internal policy regarding the payment of early check-in fees. The Commission must seek a refund from the traveler unless it determines that it is not cost effective to do so.

Commission Response

We concur with this finding. The Commission has updated its internal procedures requiring verification that no travel reimbursements include early check-in fees. The Commission is in the process of recouping the incorrectly reimbursed early check-in fee from the employee.

DETAILED FINDINGS — PURCHASE

Purchase Order Created After Invoice

Finding

We identified three transactions where a purchase order (PO) was created after the invoice was received. When a PO is created after receipt of the invoice it becomes difficult for the Commission to ensure it was not overcharged or billed for goods or services beyond those the Commission agreed to purchase. The Commission's procedures require that POs be created prior to obtaining goods and services, but this procedure was not followed in these instances.

Texas Administrative Code, Chapter 34, Section 5.51(c)(1)(D) states that it is the general responsibility of a state agency and its officers and employees to "ensure for each purchase document, the agency maintains necessary documentation for proving that each payment resulting from the document is legal, proper, and fiscally responsible."

Recommendation/Requirement

The Commission must ensure that documentation of the agreement is created at the time the goods or services are ordered from the vendor. Once the Commission has made a final approved agreement with the vendor, the Commission may not pay any amount in excess of the agreed upon amount unless the vendor provides additional consideration to the Commission.

Commission Response

We concur with this recommendation. Procurement established processes to address after-the-fact purchases including utilizing the "after-the-fact" memo. In addition, we are in the process of revising the violation memo. The violation memo will document what procedure was violated and will be submitted to the employee and his manager to further document and track compliance issues.

Incorrect Procurement Process

We identified seven transactions (18 instances) where the Commission did not use the correct procurement process as required by the [State of Texas Procurement Manual](#).

- Four transactions did not have the State Procurement Division (SPD), formerly Texas Procurement and Support Services (TPASS), delegation letter for the procurement.
- Three transactions were missing proof that Centralized Master's Bidders List (CMBL) vendors were solicited.
- Four transactions did not meet the solicitation advertisement requirements for posting on the Electronic State Business Daily (ESBD).
- Five transactions were missing System for Award Management (SAM) verification.

Finding — Missing Statewide Procurement Division Delegation

We identified four transactions where the Commission did not have the SPD delegation letter for the procurements.

For two of the four transactions, the auditor followed up with SPD and verified the delegation letter was issued; however, the Commission was unable to locate the letter in their files. For the other two transactions, the Commission failed to request a review or delegation letter from SPD.

For contracts greater than \$100,000, SPD has the discretion to make the procurement on behalf of the agency or allow the agency to make the procurement. If SPD allows the agency to make the procurement, it will send a delegation of purchase letter to the agency. See [State of Texas Procurement Manual](#), Section 2.10.

Recommendation/Requirement

The Commission must contact SPD whenever it estimates that a contract will exceed \$100,000. If SPD delegates authority to the Commission, the Commission must obtain a delegation of purchase letter from SPD.

Commission Response

We concur with this recommendation. The Commission has centralized its purchasing and contracting functions and increased its procurement staff including hiring a new director. The Procurement department now has procedures in place to ensure that SPD delegation letters are obtained for contracts greater than \$100,000 and proper documentation is maintained on file.

Finding — Missing CMBL Solicitation Documentation

We identified three transactions where the Commission could not provide the documentation necessary to support its procurement process. The Commission was unable to provide proof that CMBL vendors were solicited. The Commission stated it was unaware that these documents were missing from the contract file.

The CMBL is a database of registered vendors who have provided contact information, as well as a list of the goods and services they offer. Vendors pay a nominal annual fee to receive notification of opportunities for solicited commodities and/or services through an invitation for bid (IFB), request for proposal (RFP), request for offer (RFO) or request for qualifications (RFQ). Unless exempted by law, the CMBL must be used for all procurements subject to statewide procurement authority. The CMBL must also be used to gather information for noncompetitive procurement processes. Agencies must print out the awarded vendor's CMBL profile showing the expiration date for file documentation. Proof that the CMBL system was checked prior to any award or contract renewal being made by state of Texas government entities must be maintained. See Texas Government Code, Sections 2155.263 and 2155.264, and Texas Administrative Code, Chapter 34, Section 20.34(g).

Recommendation/Requirement

To ensure adherence to the rules and laws that govern procurement practices, all agencies and institutions of higher education must use the CMBL for all purchases, including services for which competitive bidding or competitive sealed proposals are required. The Commission must maintain evidence that the CMBL vendors were contacted and include it in the contract file, as well as the bid tabulation that supports the contracted vendor selection.

Commission Response

We concur with this recommendation for all non-Oil & Gas and Site Remediation contracts. In accordance with Texas Government Code, Section 2155.150(c), the Commission is exempt for utilizing CMBL for well plugging and site remediation contracts. Procurement's new staff is currently using CMBL for all other contracts and is properly documenting the file.

Finding — Missing ESDB Posting Documentation

We identified four transactions where the procurement file did not contain proof or verification of the posting on the ESDB for contracts over \$25,000. The Commission stated that it was not able to locate documentation supporting the ESDB posting.

The Comptroller's SPD division requires each agency to post notices for all solicitations expected to exceed \$25,000 or more on ESDB. State agencies are required to advertise a complete solicitation package (including all parts, exhibits and attachments) for a minimum of 14 days or 21 days for procurement where the entire solicitation package cannot be posted if it is very lengthy or complex.

In accordance with Texas Government Code, Section 2155.083 and Texas Administrative Code, Chapter 34, Section 20.212, the requirement to advertise solicitations by posting on the ESDB applies to all purchases exceeding \$25,000 regardless of source of funds used for procurement. This requirement includes delegated purchases, emergency purchases, construction projects, professional or consulting services, proprietary purchases or purchases exempt from SPD purchasing authority.

Recommendation/Requirement

The Commission must strengthen its controls to ensure that any contract over \$25,000 is posted for the proper duration. Failure to post a qualifying purchase for the mandatory duration of time could void the entire contract.

Supporting documentation for a purchase must be made available in an audit to justify the validity of the payment. The Commission must ensure it retains adequate supporting documentation for all expenditures prior to processing the payment.

Commission Response

We concur with this recommendation. The Procurement department now has procedures in place to ensure it complies with the ESDB posting requirements for solicitations that are greater than \$25,000.

Finding — Missing SAM Search Documentation

We identified five transactions where the Commission did not provide required SAM printouts dated prior to its respective contract awards. According to the Commission, the missing SAM printouts were an oversight.

Agencies must not award contracts to vendors who have been barred from contracting by the federal government. The SAM is the electronic database of the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs that identified those vendors excluded throughout the U.S. government (unless otherwise noted) from receiving federal contracts or certain subcontracts and from certain types of federal financial and non-financial assistance and benefits. The SAM system must be checked seven days prior to any award or contract renewal being made by state of Texas government entities. See Texas Government Code, Section 2155.077 and Texas Administrative Code, Chapter 34, Section 20.105(d)(4).

Recommendation/Requirement

We recommend that the Commission conduct a SAM search after bid tabulations. Because SAM may update these databases more than once in a 24-hour period, a final check of the Special Designated Nationals (SDN) listing must be made prior to any contract award to ensure the Commission does not award contracts to any person or vendor whose name appears on the SDN list. A copy of the SAM search results from the specified website must be used as evidence of the vendor search being performed by the agency and must be included in the contract file.

Commission Response

We concur with this recommendation. The Procurement department now has procedures in place to ensure that SAM system is checked and proper documentation is kept on file.

Prompt Payment and Payment Scheduling Errors

Finding

According to the prompt payment law, Texas Government Code, Section 2251.021(a), a governmental entity's payment is overdue on the 31st day after the later of:

- The date the governmental entity receives the goods under the contract,
- The date the performance of the service under the contract is completed, or
- The date the governmental entity receives an invoice for the goods or service.

The Comptroller's office computes and automatically pays any interest due under the prompt payment law when the Comptroller's office is responsible for paying the principal amount on behalf of the agency. See Texas Government Code, Section 2251.026. During the audit period, the Commission paid vendors \$676.65 in interest.

In our sample, we identified four purchase transactions paid late where interest was not paid because the Commission entered incorrect due dates in USAS. According to the Commission, all of these occurred due to oversight when processing the payments.

Texas Government Code, Section 2155.382(d) authorizes the Comptroller's office to allow or require state agencies to schedule payments that the Comptroller's office will make to a vendor. The Comptroller's office must prescribe the circumstances under which advance scheduling of payments is allowed or required; however, the Comptroller's office requires advance scheduling of payments when it is advantageous to the state.

We identified three purchase transactions that the Commission paid early, resulting in interest loss to the State Treasury. The Commission stated these occurred due to oversight when scheduling the payments.

Recommendation/Requirement

The Commission must review its procedures to ensure it submits payment information for processing as well as releasing the payment in a timely manner to avoid incurring interest liabilities. In addition, the Commission must verify that proper due dates are entered to ensure that if interest is due, it is paid correctly to the vendors.

To minimize the loss of earned interest to the State Treasury, the Commission must schedule all payments that are greater than \$5,000 for the latest possible distribution and in accordance with its purchasing agreements as described in [Prompt Payment](#) and [Payment Scheduling](#) in eXpendit.

Commission Response

We concur with this finding. The Commission requires its divisions and district offices to turn in invoices upon receipt. The accounting staff will audit service dates, invoice dates and payment due dates on all payments for compliance with prompt payment rules. The accounting director or team lead will review all dates when approving the vouchers for payment to verify compliance with prompt payment scheduling rules.

DETAILED FINDINGS — PAYMENT CARD

DIR Contract Vendor Not Used/DIR Waiver Not Obtained

Finding

The Commission purchased four information technology (IT) commodities without determining if the commodities were available through the Department of Information Resources (DIR) service contracts. In addition, the Commission did not obtain a DIR waiver for IT services for one purchase transaction in the sample. In a report outside of the sample, we identified two additional purchase transactions where a DIR waiver was not obtained for IT services.

Texas Government Code, Section 2157.68 states that agencies are required to determine whether the IT commodity or service is available from a DIR contract. If not, either a DIR exemption or an exemption provided by the Legislative Budget Board must be obtained. Such an exemption must be included in the documentation indicating that the product or service may be otherwise procured by the agency.

According to the Commission, DIR contracts or other state contracts were not checked prior to placing payment card orders. In addition, they stated that DIR waivers were not obtained because they were confused between these two entities, DIR and the Texas Industries for the Blind and Handicapped (TIBH).

Recommendation/Requirement

The Commission must ensure that if an IT commodity or service is available on a DIR contract, then that DIR contract is used for the procurement. Additionally, the Commission must ensure that the required DIR waiver is obtained and placed in its procurement files prior to commencing an open market purchase of IT commodities or services not available through DIR contracts.

Commission Response

We concur with this recommendation. Procurement will ensure DIR is used for all IT commodities and services or that a DIR waiver is obtained.

Term Contract Not Used

Finding

We identified six transactions in the sample and 413 transactions in a report outside of the sample where the Commission did not use a term contract to purchase goods and services. The Commission stated that it was unaware that these items were on the term contract.

[The State of Texas Procurement Manual](#), Section 2.6, Term Contracts states, “In accordance with the delegations established by Government Code, Section 2155.132, Texas Administrative Code, Chapter 34, Sections 20.40 - 20.41, and this Procurement Manual, state agencies are required to use the established term contracts for procurement of goods and services.”

The Commission participated in a purchase training class provided by the Texas Facilities Commission (TFC) on July 18, 2016, regarding state purchase laws, agency rules and procedures. The training also covered the areas of concern as a result of the audit.

Recommendation/Requirement

The Commission must review the existing term contracts to determine if an item exists on the term contracts before procuring items. The term contracts can be viewed online at [TxSmartBuy](#).

Commission Response

We concur with this recommendation. The Commission has centralized all procurement card functions within the Procurement department. In addition, we augmented the procurement staff to include a Procurement Card Specialist. This position is administering all procurement cards and monitoring all purchases with attention focused on office supplies purchases.

Missing Documentation

Finding

In a report outside of the sample, we identified an instance where the Commission paid a membership fee in order to purchase goods through a non-professional organization. The Commission did not have a cost analysis to document that it was more cost effective to procure the items from the private entity.

The Commission stated that they were not aware that they had to do a cost analysis prior to procuring goods from a private entity.

An agency must retain in its files documentation to show that the total of the membership fee plus the cost of the goods purchased from the private entity is less than the lowest cost of those goods from any other source. The agency must make the documentation available to the Comptroller during a pre-payment or a post-payment audit. See [eXpendit](#) – Membership Fees.

Recommendation/Requirement

We recommend that the Commission revise its internal policies and procedures to ensure that it provide a cost analysis and state the proper public purpose that is served by paying a membership fee to procure goods or services.

Commission Response

We concur with this recommendation. Procurement has changed operating procedures to submit a justification memo with approved requisition, to include cost analysis and state proper public purpose prior to obtaining a membership.